

**Village of Brewster
Planning Board Meeting Minutes
May 18, 2021**

BOARD MEMBERS:

Rick Lowell, Chairman
Janet Ward, Vice Chairperson
David Kulo
Marti Foster
Katy New

PROFESSIONAL ADVISORS:

Greg Folchetti, Attorney - Costello & Folchetti
Todd Atkinson, PE – J.R. Folchetti & Associates
George Gaspar, Village Trustee Liaison to Planning Board

Chairman Lowell led the Board in the Pledge of Allegiance, whereupon the proceedings were called to order at 7:30pm.

REGULAR MEETING:

Boardmember Kulo made a motion to open the regular meeting. This was seconded by Chairman Lowell and passed unanimously.

28 Eastview:

Chris DeBellis of DeBellis Construction and Brian Stokosa appeared before the Board representing this application.

Mr. Atkinson reviewed his memo with the Board and the applicant. Mr. Atkinson said there are not really any major issues, but more refining the documents that have been provided. He said item 2 is most important, which is the stormwater pollution prevention plan (SWPPP) because it is in the watershed and we must look at the enhanced phosphorus removal calculations. All in all the plans are in line with what the Board considered to be an acceptable layout with the three lots and the hammerhead that the Highway Superintendent and Board liked, he said.

Chairman Lowell said what stage does the applicant need to be on each of the 12 points in the memo before a public hearing can be scheduled. Mr. Atkinson said Mr. Folchetti and I discussed that and we can schedule a public hearing. He said we do need to move forward with SEQRA so we need to demonstrate the Board's intent to become lead agency. He said the documents would have been circulated and it takes a minimum of 30 days of circulation time which puts us past our next month's board meeting. He said we believed that the public hearing could be scheduled for the July Planning Board meeting and that would give time for the applicant to take care of the comments so they are ready for both the SEQRA Public Hearing and the Subdivision Public Hearing. Mr. Folchetti said Mr. Atkinson and I consulted earlier in the day and because of the proximity of the property to the Town of Southeast border you will need to do a Coordinated Review, which requires adopting a resolution intending to act as lead agency and then circulating that intent to the appropriate agencies and that's

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usually a 30-day window. He said in the interim if you want to put the project on for the June meeting in any event to address the comments you can still set the Public Hearing for SEQRA, which I would anticipate would be a Negative Declaration when you adopt it. You can do the SEQRA and the Site Plan/Subdivision Public Hearing at the same meeting, he said, and it gives them an opportunity to go to the Board of Trustees because I believe there will be a few offers in dedication with respect to partial road surface and maybe some sewer and water facilities that would be offered in dedication to the Village as part of the subdivision approval.

Mr. Atkinson reviewed his memo. He said a Subdivision Plat will be need to be provided by the applicant and signed and sealed by the surveyor. The SWPPP is merely revising to reflect the enhanced phosphorus removal calculations, he said, and will get with the engineer review that. Number 3: the soil testing results for lot 2 does not appear to meet the groundwater clearance and may need to move that location uphill to the next test location, he said. Number 4 is the proposed radius turnaround and I could not find this in the plans, he said. Number 5, he said the plan should show the construction details of the proposed sidewalks along Eastview, he said, and I will provide the applicant with the Village details as to what they have for sidewalks. Number 6 is profiles for the roadways, sewer systems, and stormwater treatment systems need to be provided, he said, and I will explain the details required. He said I would like a finer detail for the manifold mentioned in the plans. Legal documentation should be provided to show legal ownership of the access roadway along Eastview Avenue and Prospect Street. He said the Eastview Avenue turnaround will have to be up to Village Code. Number 10 is the ownership of the turnaround, he said, and I think the intent is to dedicate it to the Village so they can plow to the end of the road. He said number 11 is looking for the comments from the Village Highway and Water Superintendent. Lastly is the utility access for the electric and natural gas lines for the house connections, he said.

Boardmember Kulo said are there any provisions about lighting on this street. Mr. Atkinson said that was something that was being discussed with NYSEG and there was the possibility of putting a light on the last pole before you enter the right-of-way or even small lights on each of the driveway entrances to keep the lighting to a minimum. Mr. DeBellis said NYSEG wants us to bury the power from the corner so we would not potentially be able to put a pole light, so we thought we would put a lamp post light at the end of each of the three driveways. Mr. Atkinson said it provides minimal lighting but still allows for safe walking down the street if need be. Chairman Lowell said there would be no lights from the corner of Eastview into the cul-de-sac until you reached the cul-de-sac. Boardmember Kulo said my understanding is that every street in the Village is to be lit so if there is a dark corner leading up to the subdivision then that is something that would have to be rectified. Mr. Atkinson said there is almost 200 ft. in between. Boardmember Foster said I think that is a significant distance and we should insist on adequate lighting there and NYSEG should work with you on that. Boardmember New said the plans show an existing utility pole right in the middle of the cul-de-sac, will that be removed before the buildings go up. Mr. Stokosa said yes, that

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will be removed. Chairman Lowell said would you be able to put a light at the edge of your property going out to the new property next to the lot you do not own. Mr. DeBellis said I own 22 Eastview and would be happy to put a light up between 22 and 22A. Boardmember Foster said let's just say that the site plan will be updated with lighting that we discussed. He said I have a question about a homeowner's association; is it a big deal for the Village to set one up. Mr. Atkinson said the intent would not be to use a homeowner's association, but that would be a recourse though if the Village does not take dedication of the actual turnaround.

Chairman Lowell said I have a question about the stormwater management system. He said I read the manual and it talks about a minimum of annual inspections of the collection tanks and such; I would assume the homeowner would be managing that. He said Mr. Atkinson, will we be inspecting that annually to make sure it is done. Mr. Atkinson said the way that it would typically be set up is the management for the stormwater infiltration system within the right-of-way would be done by the Village as part of the MS4 review and each of the house infiltration systems would be inspected via the property owner and documentation provided to the Village Building Department. He said that would be incorporated into the actual Plat that would be signed. Chairman Lowell said is the Village recompensed for the expense of the engineer going out. Mr. Atkinson said the Village has a contract with us so we are the stormwater managers for the Village throughout. He said adding an inspection to one more location would not change the current price that the Village sees every year. He said there will be a cost to the property owner to maintain and inspect each of the ones that are on the individual properties. Mr. Atkinson said the systems should have no issues at all for a minimum of 20 years if installed properly.

Mr. DeBellis said we're looking at the floor area ratio to determine the size of the house that we are able to build without going for a variance and the architect read through the Code and it says the "R20 Zone District allows a maximum floor area ratio of 0.1 which equals 10% of the lot area for lots 1 and 2." This would be a 2270 sq. ft. house, he said, but does the garage count as floor area. Mr. Folchetti said I would ultimately defer to the Building Department, but I would agree with your architect as the floor area is usually calculated as the finished habitable space. Mr. Atkinson said I am wondering if the floor area is not the total floor area of the house, but the actual footprint of the house so we would have to take a look at that. He said I will look into that for you.

Mr. DeBellis said my architect said he read in the Code that the front porch would count in the ratio even though it is open. Mr. Folchetti said if you could submit both of the inquiries to me and I can go through the Building Department and get a confirmed answer.

Chairman Lowell said are you looking to have the garages integrated into the ground floor of the house or will they be on the side. Mr. DeBellis said they are on the side. Mr. Atkinson said if what the architect is saying is true and you do have to include the front porch and garage then you are more than likely going to want to go for those two lots to

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get a variance. He said if we determine tomorrow that that is the case then you could go to the ZBA (Zoning Board of Appeals) while waiting for the public hearing to obtain variances for each. Mr. Folchetti said they do not need a referral from Planning to go to the ZBA for an area variance like that although typically if you have an application pending you get referred.

Chairman Lowell said Mr. Folchetti, do we have anything to vote on tonight. Mr. Folchetti said are you going to declare your intent to act as lead agency for purposes of the State Environmental Quality Review Act. He said you can also consider the public hearing, which I think Mr. Atkinson said would be July 20. Mr. Atkinson said correct.

Chairman Lowell made a motion to adopt the resolution to declare its intent to act as Lead Agency for the purposes of SEQRA, seconded by Boardmember New, and passed all in favor.

Mr. Folchetti said you will need to make a motion to set a public hearing for the purposes State Environmental Quality Review Act and Chapter 182 of the Village Code for July 20, 2021 at 7:30pm. Chairman Lowell made a motion as presented by the Village Attorney, seconded by Boardmember Foster, and passed all in favor.

V & R; 861-869 Route 22:

Mohammed _____ and Anthony Congello of Gemmola & Associates appeared before the Board representing this application.

Chairman Lowell said we had asked for a drawing of the parking lot showing the designated areas for the occupants of this building and Mr. Atkinson had made some comments. Mr. Atkinson said I can make this real quick: they did exactly what I asked them to do and provided a site plan that demonstrated the zoning conformance. He said they showed approximately 45 parking spots on there where they needed to provide 41.5. He said parking spots number 1, 2, and 3 are affected by the refuse bin so I suggest parking spots 1 and 3 be eliminated and allow access to the refuse bin so that there are no issues there. This would bring them down to 43 spaces, he said, and somewhere on this plan a loading area needs to be shown. Mr. Atkinson said if those two things are done, as far as I am concerned, I think this meets the intent of what we were looking for to ensure that we have something that documents the approval of the new use for the structure that was approved by the Village Board. Chairman Lowell said the loading area you are talking about is to serve that grocery store. Mr. Atkinson said the grocery store and restaurant area. Boardmember Foster said he did not recall seeing the revised site plan. Mr. Atkinson said I picked a hardcopy up from the Village offices and there was one in everyone's box. Boardmember Foster said I am okay with not seeing the plan and comfortable with Mr. Atkinson's comments.

Mr. Atkinson said there is no exterior excavation or disturbance to the exterior of the property and the Board has the ability to waive the public hearing and/or the

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requirement for a site plan basically saying that what you provided us is adequate and meets all the requirements and we can move this forward.

Ms. Chiudina found the PDF of the site plan and shared it on the screen for the Board.

Chairman Lowell asked Mr. Folchetti to explain where the Board is at with this application with regard to public hearing and site plan review. Mr. Folchetti said there was the amendment of a local law to allow for this as a special exception use in that zoning district, which went through public hearing process. He said there was then an actual application for the use once the law was passed, so there has been public process with respect to this application as it is. Since it is a change from one conforming use in the zone, he said, to another now conforming use you have the discretion to waive what we consider to be full site plan review. He said that's something that is certainly discretionary for the Board to consider, but it is also something that is often done in the circumstances where you don't have any improvements and it's just a matter of demonstrating that you can comply to the bulk zoning requirements by submitting a site plan, which Mr. Atkinson has verified with respect to parking that has been done. If you are satisfied with what is on the plans and the comments and being able to meet whatever the technical comments are that are remaining, he said, you could consider that under Chapter 182 subdivision R; you are not mandated but it is something that is often done for the applicant when they are just changing from one conforming use to another and not doing anything site wise or renovation wise. He said it is a cumbersome part of our Code, but it is there and it is one way to get the i's dotted and the t's crossed, but not necessarily make the applicant go too much further past that.

Chairman Lowell said I think in principle we are satisfied with the parking and the plans that were shown for the apartments, but are there enough windows/ventilation in these apartments. Mr. Atkinson said that would be left to the Building Inspector. Mohammed _____ said I understand that ventilation and natural lighting is the most important part when designing residential spaces. He said for this building itself it had a lot of existing large windows that act as egress windows for the second floor. He said the way we designed it, all the bedrooms are located with at least one or two of those large windows. He said the third floor is probably your main concern because over that space we are using skylights rather than existing regulatory windows, so that was one of our main concerns but for the design of the building, they allowed for at least two skylights per room the way we have it retrofitted into this building. I would say from our design aspect, he said, we do satisfy lighting and ventilation and then additional HVAC would be included just in case for later on and for use by all of the occupants. Chairman Lowell said my concern is partly ventilation and partly fire safety egress; is there a plan to sprinkle the exit pathways or in some other way ensure a safe passage from the third floor down to the street. Mohammed _____ said I think Mr. Congello can bring you up to speed with that because he is the one involved in making sure that fire safety was included in this project. Mr. Congello said yes, on the third floor there will be a sprinkler system in case of fire as well as an exit door that goes down to the second-floor roof

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where they can exit and the fire department can get to them from there. He said we spoke to the Building Inspector about it and it is all up to Code. Chairman Lowell said Mr. Atkinson, does getting from the second-floor roof sound like it is Code here in the Village. Mr. Congello said from what the Building Inspector said, yes. Mohammed _____ said the Code allows for a window egress for a second story building and the third story has access to the adjacent roofline and that would be separated. He said all of the walls are made of brick so they have a better fire rating than if we applied maybe a 5/8-inch fire-rated board. Mr. Congello said both building inspectors went through this and reviewed the plans and said we brought everything up to Code that we needed to.

Boardmember New said as this is a historical building, you are only changing the inside of the space, is that correct. Mohammed _____ said we are only changing the interior portions by removing a few walls that were damaged during the aging of the building. The existing façade of the building is not being changed, he said, and the owner does not see any reason to make any changes because the building layout satisfies what he is looking for.

Boardmember Foster said the last time we talked about this we discussed laundry facilities; what are you going to do about that. Mohammed _____ said we did bring this up with the owner of the building and he is very open to doing that. He said he will not be providing laundry spaces on the second and third floor, but he is willing to do some kind of retrofitting on the first-floor access area as there is a utility room there. Boardmember Foster said I would like to see that in writing.

Boardmember Foster said on the Full Environmental Assessment Form on page 5 “would it provide opposed action use or create a new demand for water” and the answer was no, but if there are going to be people there wouldn’t there be more water usage. Mohammed _____ said the engineer said a commercial building would essentially use more water and sewage compared to a residential, but I do not have that in writing. Mr. Atkinson said when this was approved for the new use through the Village Board, we looked at the actual sewer and water usage and we determined that the change would be minimal so I would look to the EAF that was done as part of the public hearing for the change in the use and answer the same way here. Boardmember Foster said on page 9 e1a it says “check all uses that occur on adjoining and near the project site” and you checked off urban and commercial, but I think you also need to check off residential suburban. Mr. Congello said I believe that everything that is adjoining is in the B2 District. Boardmember Foster said on page 10 it says “does the project site contain an existing dam” and it says yes, so I was wondering where the dam was and what it was used for. Mohammed _____ said if you look at the northern part of the plan you will see the existing dam, but it is currently abandoned so I did indicate that yes there is one but it is not actively used. Mr. Atkinson said there was a dam at one time for the Borden Milk Factory but it is rubble out right now and is shown in the upper righthand corner of the actual site plan.

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Chairman Lowell said Mr. Folchetti, what are our next steps tonight. Mr. Folchetti said it depends on what the Board is inclined to do. He said if you are inclined to set a public hearing you can do that as early as next month because you would not do a coordinator SEQRA review in this circumstance. You could also consider waiving a public hearing and the site plan approval based on what you are being told, he said. Chairman Lowell said the Village Board already had their public hearing on whether to allow residential in the B2 District. Mr. Folchetti said they had a public hearing on the adoption of the law, which allows this use and then this particular application was granted a Special Exception Use Permit, which was also done at a public meeting. He said you can certainly consider waiving it if you are satisfied and if you are not then you can have your own public hearing, but you do not need to do SEQRA from what I am seeing here. We will just consider a negative declaration and an uncoordinated review, he said, when it is time to put it on for a possible approval. Chairman Lowell said it sounds to me like we don't need to schedule a public hearing if we're satisfied that process has already been satisfied with two public hearings on the matter. Mr. Folchetti said if you don't think you need anything further in terms of public input or meaningful design changes then you can consider waiving site plan approval pursuant to 182R. He said if you would like to have a public hearing you can do that, but you don't have to worry about SEQRA.

The Board was asked about any differing opinions from Chairman Lowell's input. Boardmember Foster said I do not see the need for another public hearing. Chairman Lowell said I would be in favor of waiving the site plan as well. Mr. Atkinson said what is the difference between waiving the site plan and saying 'no public hearing needed and they are going to approve the site plan tonight as it stands.' Mr. Folchetti said the waiver of the site plan approval allows them to go get a building permit right now and there will be no conditional final resolution for site plan. He said if you look at 182R it tells you that the Planning Board "may be waived in whole or in part when the site plan is for a conforming use that will not change or enlarge an existing building or if there is proposed enlargement it is less than 10% of the minimum floor area." He said the Building Department can consider issuing the building permits based on the plans that are being presented and the other way they would have to have a condition of final site plan approval resolution for whatever the use is. Boardmember Foster said are we going to get an updated site plan addressing Mr. Atkinson's parking spot comments. Chairman Lowell said that will be provided to the Building Department when they apply for the permits and will be the condition of our resolution tonight that pursuant to the things we told them they need to do in order for them to go ahead. Boardmember New said are there pieces of the factory that will be removed. Mr. Atkinson said the first floor stays as is and the second and third floors that were originally office space now become two-bedroom apartments on the second floor and a three-bedroom apartment on the third floor. Chairman Lowell said according to the State, as far as I understand, as long as the exterior is not disturbed it remains a historic building and you can do whatever is approved by the Building Department with the interior.

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Chairman Lowell asked Mr. Folchetti to formulate the wording for a motion to be heard. Mr. Folchetti said motion to waive site plan approval subject to the comments in Mr. Atkinson's memo dated May 18, 2021 and pursuant to Village Code Section 182 subdivision R.

Boardmember Kulo said may I make a comment before we make a motion. He said we are minus one board member and she had a lot of interesting problems with this particular application so I don't know if it is appropriate for us to take action tonight without her. Chairman Lowell said my thought is that first of all Boardmember Ward sent an email earlier today saying that she would not be able to be here, but that she had some comments that she would send to me prior to the meeting and I never received any comments. He said she did have objections regarding putting residential use in this building because she had concerns about traffic and children, but we discussed that at length during at least two meeting and we voted 4 to 1 to ahead with the project. Boardmember Kulo said I am happy with your explanation so that when she comes back she at least knows that we were discussing this and why we made the decision tonight, whatever action we decide to take.

Chairman Lowell made a motion to accept the resolution as stated by out Town Attorney to waive site plan approval per the wording that will be submitted in the official resolution, seconded by Boardmember Kulo, and passed 4 to 0 with 1 absent.

The minutes of the April 20, 2021 meeting were discussed. The addition of 28 Eastview as an agenda item is to be added. The motion to approve the minutes as amended was introduced by Boardmember Foster, seconded by Boardmember New and passed all in favor.

The Board discussed that the Board has not heard anything from 55-61 Main Street in a couple of months. Boardmember Kulo said I have paperwork dated March 30. Mr. Atkinson said if the Board is okay with it, I am going to reach out to Mr. Nixon and let him know he did not submit a site plan that is required and a couple other items so that he can prepare to appear before the Board. Chairman Lowell said yes and we discussed that he will need to provide parking for these apartments should they go ahead. Mr. Folchetti said that property is subject to some litigation on the Urban Renewal Plan in the Appellate Division and that may be what they are doing.

The minutes of March 16, 2021 as addended were discussed. The motion to approve the minutes as amended was introduced by Chairman Lowell, seconded by Boardmember Kulo and passed all in favor.

NEW BUSINESS:

There was no new business to discuss.

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Boardmember Kulo made a Motion to adjourn the meeting, seconded by Chairman Lowell, and passed all in favor.

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